

COMMONWEALTH OF VIRGINIA
STATE AIR POLLUTION CONTROL BOARD

9VAC5 CHAPTER 140.
REGULATION FOR EMISSIONS TRADING.

PART I.
NO_x Budget Program for Non-Electric Generating Units.

ARTICLE 1.
NO_x Budget Program General Provisions.

9VAC5-140-10. Purpose.

This part establishes general provisions and the applicability, permitting, and monitoring provisions for the NO_x Budget Program for non-electric generating units (non-EGUs) as a means of mitigating the interstate transport of ozone and nitrogen oxides.

9VAC5-140-20. Definitions.

A. As used in this part, all words or terms not defined here shall have the meanings given them in 9VAC5 Chapter 10 (9VAC5-10-10 et seq.), unless otherwise required by context.

B. For the purpose of this part and any related use, the following words or terms shall have the following meanings unless the context clearly indicates otherwise:

"Account certificate of representation" means the completed and signed submission required by Article 2 (9VAC5-140-100 et seq.) of this part for certifying the designation of a NO_x authorized account representative for a NO_x Budget source or a group of identified NO_x Budget sources who is authorized to represent the owners and operators of such source or sources and of the NO_x Budget units at such source or sources with regard to matters under the NO_x Budget Program.

"Administrator" means the Administrator of the United States Environmental Protection Agency or the administrator's duly authorized representative.

"Automated data acquisition and handling system or DAHS" means that component of the CEMS, or other emissions monitoring system approved for use under Article 8 (9VAC5-140-700 et seq.) of this part, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors, and other component parts of the monitoring system to produce a continuous record of the measured parameters in the measurement units required by Article 8 (9VAC5-140-700 et seq.) of this part.

"Boiler" means an enclosed fossil or other fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other medium.

"CAA" means the CAA, 42 U.S.C. 7401, et seq., as amended by Pub. L. No. 101-549 (November 15, 1990).

"Combined cycle system" means a system comprised of one or more combustion turbines, heat recovery steam generators, and steam turbines configured to improve overall efficiency of electricity generation or steam production.

"Combustion turbine" means an enclosed fossil or other fuel-fired device that is comprised of a compressor, a combustor, and a turbine, and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine.

"Commence commercial operation" means, with regard to a unit that serves a generator, to have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation. Except as provided in 9VAC 5-140-50, for a unit that is a NO_x Budget unit under 9VAC5-140-40 on the date the unit commences commercial operation, such date shall remain the unit's date of commencement of commercial operation even if the unit is subsequently modified, reconstructed, or repowered. Except as provided in 9VAC 5-140-50 or Article 9 (9VAC5-140-800 et seq.) of this part, for a unit that is not a NO_x Budget unit under 9VAC5-140-40 on the date the unit commences commercial operation, the date the unit becomes a NO_x Budget unit under 9VAC5-140-40 shall be the unit's date of commencement of commercial operation.

"Commence operation" means to have begun any mechanical, chemical, or electronic process, including, with regard to a unit, start-up of a unit's combustion chamber. Except as provided in 9VAC5-140-50, for a unit that is a NO_x Budget unit under 9VAC5-140-40 on the date of commencement of operation, such date shall remain the unit's date of commencement of operation even if the unit is subsequently modified, reconstructed, or repowered. Except as provided in 9VAC5-140-50 for a unit that is not a NO_x Budget unit under 9VAC5-140-40 on the date of commencement of operation, the date the unit becomes a NO_x Budget unit under 9VAC5-140-40 shall be the unit's date of commencement of operation.

"Common stack" means a single flue through which emissions from two or more units are exhausted.

"Continuous emission monitoring system or CEMS" means the equipment required under Article 8 (9VAC5-140-700 et seq.) of this part to sample, analyze, measure, and provide, by readings taken at least once every 15 minutes of the measured parameters, a permanent record of nitrogen oxides emissions, expressed in tons per hour for nitrogen oxides. The following systems are component parts included, consistent with 40 CFR Part 75, in a continuous emission monitoring system:

1. Flow monitor;
2. Nitrogen oxides pollutant concentration monitors;
3. Diluent gas monitor (oxygen or carbon dioxide) when such monitoring is required by Article 8 (9VAC5-140-700 et seq.) of this part;
4. A continuous moisture monitor when such monitoring is required by Article 8 (9VAC5-140-700 et seq.) of this part; and
5. An automated data acquisition and handling system.

"Control period" means the period beginning May 1 of a year and ending on September 30 of the same year, inclusive, except for the calendar year 2004, the period shall begin May 31.

"Electricity for sale under firm contract to the grid" means electricity for sale where the capacity involved is intended to be available at all times during the period covered by a guaranteed commitment to deliver, even under adverse conditions.

"Emissions" means air pollutants exhausted from a unit or source into the atmosphere, as measured, recorded, and reported to the administrator by the NO_x authorized account representative and as determined by the administrator in accordance with Article 8 (9VAC5-140-700 et seq.) of this part.

"Fossil fuel" means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material.

"Fossil fuel-fired" means, with regard to a unit:

1. For units that commenced operation before January 1, 1996, the combustion of

fossil fuel, alone or in combination with any other fuel, where fossil fuel actually combusted comprises more than 50% of the annual heat input on a Btu basis during 1995 or, if a unit had no heat input in 1995, during the last year of operation of the unit prior to 1995;

2. For units that commenced operation on or after January 1, 1996, and before January 1, 1997, the combustion of fossil fuel, alone or in combination with any other fuel, where fossil fuel actually combusted comprises more than 50% of the annual heat input on a Btu basis during 1996; or

(3) For units that commence operation on or after January 1, 1997,

(i) The combustion of fossil fuel, alone or in combination with any other fuel, where fossil fuel actually combusted comprises more than 50% of the annual heat input on a Btu basis during any year; or

(ii) The combustion of fossil fuel, alone or in combination with any other fuel, where fossil fuel is projected to comprise more than 50% of the annual heat input on a Btu basis during any year, provided that the unit shall be "fossil fuel-fired" as of the date, during such year, on which the unit begins combusting fossil fuel.

"Generator" means a device that produces electricity.

"Heat input" means the product (in mmBtu/time) of the gross calorific value of the fuel (in Btu/lb) and the fuel feed rate into a combustion device (in mass of fuel/time), as measured, recorded, and reported to the administrator by the NO_x authorized account representative and as determined by the administrator in accordance with Article 8 (9VAC5-140-700 et seq.) of this part, and does not include the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

"Implementation plan" means the portion or portions of the state implementation plan, or the most recent revision thereof, which has been approved in subpart VV of 40 CFR Part 52 by the administrator under § 110 of the CAA, or promulgated under § 110(c) of the CAA, or promulgated or approved pursuant to regulations promulgated under § 301(d) of the CAA and which implements the relevant requirements of the CAA.

"Life-of-the-unit, firm power contractual arrangement" means a unit participation power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of nameplate capacity and associated energy from any specified unit and pays its proportional amount of such unit's total costs, pursuant to a contract:

1. For the life of the unit;

2. For a cumulative term of no less than 30 years, including contracts that permit an election for early termination; or

3. For a period equal to or greater than 25 years or 70% of the economic useful life of the unit determined as of the time the unit is built, with option rights to purchase or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.

"Maximum design heat input" means the ability of a unit to combust a stated maximum amount of fuel per hour on a steady state basis, as determined by the physical design and physical characteristics of the unit.

"Maximum potential hourly heat input" means an hourly heat input used for reporting purposes when a unit lacks certified monitors to report heat input. If the unit intends to use appendix D of 40 CFR Part 75 to report heat input, this value should be calculated, in accordance with 40 CFR Part 75, using the maximum fuel flow rate and the maximum gross calorific value. If the unit intends to use a flow monitor and a diluent gas monitor, this value should be reported, in accordance with 40 CFR Part 75, using the

maximum potential flowrate and either the maximum carbon dioxide concentration (in percent CO₂) or the minimum oxygen concentration (in percent O₂).

"Maximum potential NO_x emission rate" means the emission rate of nitrogen oxides (in lb/mmBtu) calculated in accordance with section 3 of appendix F of 40 CFR Part 75, using the maximum potential nitrogen oxides concentration as defined in section 2 of appendix A of 40 CFR Part 75, and either the maximum oxygen concentration (in percent O₂) or the minimum carbon dioxide concentration (in percent CO₂), under all operating conditions of the unit except for unit start up, shutdown, and upsets.

"Maximum rated hourly heat input" means a unit-specific maximum hourly heat input (mmBtu) which is the higher of the manufacturer's maximum rated hourly heat input or the highest observed hourly heat input.

"Monitoring system" means any monitoring system that meets the requirements of Article 8 (9VAC5-140-700 et seq.) of this part, including a continuous emission monitoring system, an excepted monitoring system, or an alternative monitoring system.

"Nameplate capacity" means the maximum electrical generating output (in MWe) that a generator can sustain over a specified period of time when not restricted by seasonal or other deratings as measured in accordance with the United States Department of Energy standards.

"NO_x authorized account representative" means, for a NO_x Budget source or NO_x Budget unit at the source, the natural person who is authorized by the owners and operators of the source and all NO_x Budget units at the source, in accordance with Article 2 (9VAC5-140-100 et seq.) of this part, to represent and legally bind each owner and operator in matters pertaining to the NO_x Budget Program.

"NO_x Budget permit" means the legally binding and federally enforceable written document, or portion of such document, issued by the permitting authority under this part, including any permit revisions, specifying the NO_x Budget Program requirements applicable to a NO_x Budget source, to each NO_x Budget unit at the NO_x Budget source, and to the owners and operators and the NO_x authorized account representative of the NO_x Budget source and each NO_x Budget unit.

"NO_x Budget source" means a source that includes one or more NO_x Budget units.

"NO_x Budget Program" means program established in accordance with this part and approved and administered by the administrator pursuant to 40 CFR 51.121 or established by the administrator pursuant to 40 CFR 52.34.

"NO_x Budget unit" means a unit that is subject to the NO_x Budget program under 9VAC5-140-40.

"Operator" means any person who operates, controls, or supervises a NO_x Budget unit, or a NO_x Budget source and shall include, but not be limited to, any holding company, utility system, or plant manager of such a unit or source.

"Owner" means any of the following persons:

1. Any holder of any portion of the legal or equitable title in a NO_x Budget unit;
2. Any holder of a leasehold interest in a NO_x Budget unit; or
3. Any purchaser of power from a NO_x Budget unit under a life-of-the-unit, firm power contractual arrangement. However, unless expressly provided for in a leasehold agreement, owner shall not include a passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the NO_x Budget unit or the unit for which an application for a NO_x Budget opt-in permit under 9VAC5-140-830 is

submitted and not denied or withdrawn.

"Permitting authority" means the State Air Pollution Control Board.

"Receive" or "receipt of" means, when referring to the permitting authority or the administrator, to come into possession of a document, information, or correspondence (whether sent in writing or by authorized electronic transmission), as indicated in an official correspondence log, or by a notation made on the document, information, or correspondence, by the permitting authority or the administrator in the regular course of business.

"Reference method" means any direct test method of sampling and analyzing for an air pollutant as specified in appendix A of 40 CFR Part 60.

"Source" means any governmental, institutional, commercial, or industrial structure, installation, plant, building, or facility that emits or has the potential to emit any regulated air pollutant under the CAA. For purposes of section 502(c) of the CAA, a "source," including a "source" with multiple units, shall be considered a single "facility."

"State" means the Commonwealth of Virginia. The term "State" shall have its conventional meaning where such meaning is clear from the context.

"State operating permit" means a permit issued under Article 5 (9VAC5-80-800 et seq.) of Part II of 9VAC5 Chapter 80.

"State operating permit regulations" means the regulations codified in Article 5 (9VAC5-80-800 et seq.) of Part II of 9VAC5 Chapter 80.

"Submit" or "serve" means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable regulation:

1. In person;
2. By United States Postal Service; or
3. By other means of dispatch or transmission and delivery. Compliance with any "submission," "service," or "mailing" deadline shall be determined by the date of dispatch, transmission, or mailing and not the date of receipt.

"Title V operating permit" means a permit issued under Article 1 (9VAC5-80-50 et seq.) or Article 3 (9VAC5-80-360 et seq.) of Part II of 9VAC5 Chapter 80.

"Title V operating permit regulations" means the regulations codified in Article 1 (9VAC5-80-50 et seq.), Article 2 (9VAC5-80-310 et seq.), Article 3 (9VAC5-80-360 et seq.), and Article 4 (9VAC5-80-710 et seq.) of Part II of 9VAC5 Chapter 80.

"Ton" or "tonnage" means any "short ton" (i.e., 2,000 pounds). Total tons for a control period shall be calculated as the sum of all recorded hourly emissions (or the tonnage equivalent of the recorded hourly emissions rates) in accordance with Article 8 (9VAC5-140-700 et seq.) of this part, with any remaining fraction of a ton equal to or greater than 0.50 ton deemed to equal one ton and any fraction of a ton less than 0.50 ton deemed to equal zero tons.

"Unit" means a fossil fuel-fired stationary boiler, combustion turbine, or combined cycle system.

"Unit operating day" means a calendar day in which a unit combusts any fuel.

"Unit operating hour" or "hour of unit operation" means any hour (or fraction of an hour) during which a unit combusts any fuel.

9VAC5-140-30. Measurements, abbreviations, and acronyms.

Measurements, abbreviations, and acronyms used in this part are defined as follows:

Btu--British thermal unit.
hr--hour.
lb--pounds.
mmBtu--million Btu.
MWe--megawatt electrical.
ton--2000 pounds.
CO₂--carbon dioxide.
NO_x--nitrogen oxides.
O₂--oxygen.

9VAC5-140-35. Federal Regulations Incorporated by Reference.

A. The U.S. Environmental Protection Agency Regulations cited in this part are, unless indicated otherwise, incorporated by reference into this part as amended by the word or phrase substitutions given in subsection B of this section. The complete text of the federal regulations incorporated herein by reference is contained in 40 CFR Part 75. The 40 CFR part and section numbers appearing throughout this part identify the specific provisions of the federal regulations incorporated by reference. The specific version of the federal regulations adopted by reference shall be that contained in the CFR (2016) in effect July 1, 2016. Reference to the various provisions of the Code of Federal Regulations are structured as in the following example: 40 CFR Part 75 means Part 75 of Title 40 of the Code of Federal Regulations; 40 CFR 75.1 means Section 75.1 in Part 75 of Title 40 of the Code of Federal Regulations.

B. In all of the federal regulations incorporated by reference substitute:

1. Board for administrator.
2. Board for U.S. Environmental Protection Agency (except in references).

9VAC5-140-40. Applicability.

Except as provided in subdivision A 3 the following units shall be NO_x Budget units, and any source that includes one or more such units shall be a NO_x Budget source, subject to the requirements of this part:

1.a. For units that commenced operation before January 1, 1997, a unit serving during 1995 or 1996 a generator that had a nameplate capacity greater than 25 MWe and produced electricity for sale under a firm contract to the electric grid.

b. For units that commenced operation on or after January 1, 1997, and before January 1, 1999, a unit serving during 1997 or 1998 a generator that had a nameplate capacity greater than 25 MWe and produced electricity for sale under a firm contract to the electric grid.

c. For units that commence operation on or after January 1, 1999, a unit serving at any time a generator that has a nameplate capacity greater than 25 MWe and produces electricity for sale.

2. For units that commenced operation before January 1, 1997, a unit that has a maximum design heat input greater than 250 mmBtu/hr and that did not serve during 1995 or 1996 a generator producing electricity for sale under a firm contract to the electric grid.

3. For units covered by the Cross- State Air Pollution Rule, an exemption to this chapter shall apply.

4. For units that commenced operation on or after January 1, 1997, and before January 1, 1999, a unit that has a maximum design heat input greater than 250 mmBtu/hr and that did not serve during 1997 or 1998 a generator producing electricity for sale under a firm contract to the electric grid.

5. For units that commence operation on or after January 1, 1999, a unit with a maximum design heat input greater than 250 mmBtu/hr that at no time serves a generator producing electricity for sale.

9VAC5-140-50. Retired unit exemption.

A. This section applies to any NO_x Budget unit that is permanently retired.

B.1. Any NO_x Budget unit that is permanently retired shall be exempt from the NO_x Budget Program, except for the provisions of this section, 9VAC5-140-20, 9VAC5-140-30, 9VAC5-140-40 and 9VAC5-140-70.

2. The exemption under subdivision 1 of this subsection shall become effective the day on which the unit is permanently retired. Within 30 days of permanent retirement, the NO_x authorized account representative (authorized in accordance with Article 2 (9VAC5-140-100 et seq.) of this part) shall submit a statement to the permitting authority otherwise responsible for administering any NO_x Budget permit for the unit. A copy of the statement shall be submitted to the administrator. The statement shall state (in a format prescribed by the permitting authority) that the unit is permanently retired and will comply with the requirements of subsection C of this section.

3. After receipt of the notice under subdivision 2 of this subsection, the permitting authority will amend any permit covering the source at which the unit is located to add the provisions and requirements of the exemption under subdivision 1 of this subsection and subsection C of this section.

C.1. A unit exempt under this section shall not emit any nitrogen oxides, starting on the date that the exemption takes effect

2.a. A unit exempt under this section and located at a source that is required, or but for this exemption would be required, to have a Title V operating permit shall not resume operation unless the NO_x authorized account representative of the source submits a complete NO_x Budget permit application under 9VAC5-140-220 for the unit not less than 18 months (or such lesser time provided by the permitting authority) prior to the date on which the unit is to first resume operation.

b. A unit exempt under this section and located at a source that is required, or but for this exemption would be required, to have a state operating permit shall not resume operation unless the NO_x authorized account representative of the source submits a complete NO_x Budget permit application under 9VAC5-140-220 for the unit not less than 18 months (or such lesser time provided by the permitting authority) prior the date on which the unit is to first resume operation.

3. The owners and operators and, to the extent applicable, the NO_x authorized account representative of a unit exempt under this section shall comply with the requirements of the NO_x Budget Program concerning all periods for which the exemption is not in effect, even if such requirements arise, or must be complied with, after the exemption takes effect.

4. For a period of five years from the date the records are created, the owners and operators of a unit exempt under this section shall retain at the source that includes the unit, records demonstrating that the unit is permanently retired. The five-year period for keeping records may be extended for cause, at any time prior to the end of the period, in writing by the permitting authority or the administrator. The owners and operators bear the burden of proof that the unit is permanently retired.

5a. On the earlier of the following dates, a unit exempt under subsection B of this section shall lose its exemption:

(1) The date on which the NO_x authorized account representative submits a NO_x Budget permit application under subdivision 2 of this subsection;

(2) The date on which the NO_x authorized account representative is required under subdivision 2 of this subsection to submit a NO_x Budget permit application; or

(3) The date on which the unit resumes operation, if the unit is not required to submit a NO_x Budget permit application.

b. For the purpose of applying monitoring requirements under Article 8 (9VAC5-140-700 et seq.) of this part, a unit that loses its exemption under this section shall be treated as a unit that commences operation or commercial operation on the first date on which the unit resumes operation.

9VAC5-140-60. Standard requirements.

A. The following requirements concerning permits shall apply:

1. The NO_x authorized account representative of each NO_x Budget source required to have a federally enforceable permit and each NO_x Budget unit required to have a federally enforceable permit at the source shall:

a. Submit to the permitting authority a complete NO_x Budget permit application under 9VAC5-140-220 in accordance with the deadlines specified in 9VAC5-140-210 B and C;

b. Submit in a timely manner any supplemental information that the permitting authority determines is necessary in order to review a NO_x Budget permit application and issue or deny a NO_x Budget permit.

2. The owners and operators of each NO_x Budget source required to have a federally enforceable permit and each NO_x Budget unit required to have a federally enforceable permit at the source shall have a NO_x Budget permit issued by the permitting authority and operate the unit in compliance with such NO_x Budget permit.

3. The owners and operators of a NO_x Budget source that is not otherwise required to have a federally enforceable permit are not required to submit a NO_x Budget permit application, and to have a NO_x Budget permit, under Article 3 (9VAC5-140-200 et seq.) of this part for such NO_x Budget source.

B. The following requirements concerning monitoring shall apply:

1. The owners and operators and, to the extent applicable, the NO_x authorized account representative of each NO_x Budget source and each NO_x Budget unit at the source shall comply with the monitoring requirements of Article 8 (9VAC5-140-700 et seq.) of this part.

2. The emissions measurements recorded and reported in accordance with Article 8 (9VAC5-140-700 et seq.) of this part shall be used to determine compliance by the unit.

C. The following requirements concerning recordkeeping and reporting shall apply:

1. Unless otherwise provided, the owners and operators of the NO_x Budget source and each NO_x Budget unit at the source shall keep on site at the source each of the following documents for a period of five years from the date the document is created. This period may be extended for cause, at any time prior to the end of five years, in writing by the permitting authority or the administrator.

a. The account certificate of representation for the NO_x authorized account representative for the source and each NO_x Budget unit at the source and all documents that demonstrate the truth of the statements in the account certificate of representation, in accordance with 9VAC5-140-130; provided that the certificate and documents shall be retained on site at the source beyond such five-year period until such documents are superseded because of the submission of a new account certificate of representation changing the NO_x authorized account representative.

b. All emissions monitoring information, in accordance with Article 8 (9VAC5-140-700 et seq.) of this part; provided that to the extent that Article 8 (9VAC5-140-700 et seq.) of this part provides for a three-year period for recordkeeping, the three-year period shall apply.

c. Copies of all reports, compliance certifications, and other submissions and all records made or required under the NO_x Budget Program.

d. Copies of all documents used to complete a NO_x Budget permit application and any other submission under the NO_x Budget Program or to demonstrate compliance with the requirements of the NO_x Budget Program.

2. The NO_x authorized account representative of a NO_x Budget source and each NO_x Budget unit at the source shall submit the reports and compliance certifications required under the NO_x Budget Program, including those under Article 8 (9VAC5-140-700 et seq.) of this part.

D. The following requirements concerning liability shall apply:

1. Any person who knowingly violates any requirement or prohibition of the NO_x Budget Program, a NO_x Budget permit, or an exemption under 9VAC5-140-50 shall be subject to enforcement pursuant to the Air Pollution Control Law of Virginia or applicable federal law.

2. Any person who knowingly makes a false material statement in any record, submission, or report under the NO_x Budget Program shall be subject to criminal enforcement pursuant to the Air Pollution Control Law of Virginia or applicable federal law.

3. No permit revision shall excuse any violation of the requirements of the NO_x Budget Program that occurs prior to the date that the revision takes effect.

4. Each NO_x Budget source and each NO_x Budget unit shall meet the requirements of the NO_x Budget Program.

5. Any provision of the NO_x Budget Program that applies to a NO_x Budget source (including a provision applicable to the NO_x authorized account representative of a NO_x Budget source) shall also apply to the owners and operators of such source and of the NO_x Budget units at the source.

6. Any provision of the NO_x Budget Program that applies to a NO_x Budget unit (including a provision applicable to the NO_x authorized account representative of a NO_x budget unit) shall also apply to the owners and operators of such unit. Except with regard to the requirements applicable to units with a common stack under Article 8 (9VAC5-140-700 et seq.) of this part, the owners and operators and the NO_x authorized account representative of one NO_x Budget unit shall not be liable for any violation by any other NO_x Budget unit of which they are not owners or operators or the NO_x authorized account representative and that is located at a source of which they are not owners or operators or the NO_x authorized account representative.

E. No provision of the NO_x Budget Program, a NO_x Budget permit application, a NO_x Budget permit, or an exemption under 9VAC5-140-50 shall be construed as exempting or excluding the owners and operators and, to the extent applicable, the NO_x authorized account representative of a NO_x Budget source or NO_x Budget unit from compliance with any other provision of the applicable implementation plan, a federally enforceable permit, or the CAA.

9VAC5-140-70. (Repealed.)

ARTICLE 2.

NO_x Authorized Account Representative for NO_x Budget Sources.

9VAC5-140-100. Authorization and responsibilities of the NO_x authorized account representative.

A. Except as provided under 9VAC5-140-110, each NO_x Budget source, including all NO_x Budget units at the source, shall have one and only one NO_x authorized account representative, with regard to all matters under the NO_x Budget Program concerning the source or any NO_x Budget unit at the source.

B. The NO_x authorized account representative of the NO_x Budget source shall be selected by an agreement binding on the owners and operators of the source and all NO_x Budget units at the source.

C. Upon receipt by the administrator of a complete account certificate of representation under 9VAC5-140-130, the NO_x authorized account representative of the source shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each owner and operator of the NO_x Budget source represented and each NO_x Budget unit at the source in all matters pertaining to the NO_x Budget Trading Program, notwithstanding any agreement between the NO_x authorized account representative and such owners and operators. The owners and operators shall be bound by any decision or order issued to the NO_x authorized account representative by the permitting authority, the administrator, or a court regarding the source or unit.

D. No NO_x Budget permit shall be issued for a NO_x Budget unit at a source, until the administrator has received a complete account certificate of representation under 9VAC5-140-130 for a NO_x authorized account representative of the source and the NO_x Budget units at the source.

E.1. Each submission under the NO_x Budget Program shall be submitted, signed, and certified by the NO_x authorized account representative for each NO_x Budget source on behalf of which the submission is made. Each such submission shall include the following certification statement by the NO_x authorized account representative: "I am authorized to make this submission on behalf of the owners and operators of the NO_x Budget sources or NO_x Budget units for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

2. The permitting authority and the administrator will accept or act on a submission made on behalf of owner or operators of a NO_x Budget source or a NO_x Budget unit only if the submission has been made, signed, and certified in accordance with subdivision 1 of this subsection.

9VAC5-140-110. Alternate NO_x authorized account representative.

A. An account certificate of representation may designate one and only one alternate NO_x authorized account representative who may act on behalf of the NO_x authorized account representative. The agreement by which the alternate NO_x authorized account representative is selected shall include a procedure for authorizing the alternate NO_x authorized account representative to act in lieu of the NO_x authorized account representative.

B. Upon receipt by the administrator of a complete account certificate of representation under 9VAC5-140-130, any representation, action, inaction, or submission by the alternate NO_x authorized account representative shall be deemed to be a representation, action, inaction, or submission by the NO_x

authorized account representative.

C. Except in this section and 9VAC5-140-100 A, 9VAC5-140-120 and 9VAC5-140-130, whenever the term "NO_x authorized account representative" is used in this part, the term shall be construed to include the alternate NO_x authorized account representative.

9VAC5-140-120. Changing the NO_x authorized account representative and the alternate NO_x authorized account representative; changes in the owners and operators.

A. The NO_x authorized account representative may be changed at any time upon receipt by the administrator of a superseding complete account certificate of representation under 9VAC5-140-130. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous NO_x authorized account representative prior to the time and date when the administrator receives the superseding account certificate of representation shall be binding on the new NO_x authorized account representative and the owners and operators of the NO_x Budget source and the NO_x Budget units at the source.

B. The alternate NO_x authorized account representative may be changed at any time upon receipt by the administrator of a superseding complete account certificate of representation under 9VAC5-140-130. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate NO_x authorized account representative prior to the time and date when the administrator receives the superseding account certificate of representation shall be binding on the new alternate NO_x authorized account representative and the owners and operators of the NO_x Budget source and the NO_x Budget units at the source.

C.1. In the event a new owner or operator of a NO_x Budget source or a NO_x Budget unit is not included in the list of owners and operators submitted in the account certificate of representation, such new owner or operator shall be deemed to be subject to and bound by the account certificate of representation, the representations, actions, inactions, and submissions of the NO_x authorized account representative and any alternate NO_x authorized account representative of the source or unit, and the decisions, orders, actions, and inactions of the permitting authority or the administrator, as if the new owner or operator were included in such list.

2. Within 30 days following any change in the owners and operators of a NO_x Budget source or a NO_x Budget unit, including the addition of a new owner or operator, the NO_x authorized account representative or alternate NO_x authorized account representative shall submit a revision to the account certificate of representation amending the list of owners and operators to include the change.

9VAC5-140-130. Account certificate of representation.

A. A complete account certificate of representation for a NO_x authorized account representative or an alternate NO_x authorized account representative shall include the following elements in a format prescribed by the administrator:

1. Identification of the NO_x Budget source and each NO_x Budget unit at the source for which the account certificate of representation is submitted.

2. The name, address, e-mail address (if any), telephone number, and facsimile transmission number (if any) of the NO_x authorized account representative and any alternate NO_x authorized account representative.

3. A list of the owners and operators of the NO_x Budget source and of each NO_x Budget unit at the source.

4. The following certification statement by the NO_x authorized account representative and any alternate NO_x authorized account representative: "I certify that I was selected as the NO_x authorized

account representative or alternate NO_x authorized account representative, as applicable, by an agreement binding on the owners and operators of the NO_x Budget source and each NO_x Budget unit at the source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the NO_x Budget Program on behalf of the owners and operators of the NO_x Budget source and of each NO_x Budget unit at the source and that each such owner and operator shall be fully bound by my representations, actions, inactions, or submissions and by any decision or order issued to me by the permitting authority, the administrator, or a court regarding the source or unit."

5. The signature of the NO_x authorized account representative and any alternate NO_x authorized account representative and the dates signed.

B. Unless otherwise required by the permitting authority or the administrator, documents of agreement referred to in the account certificate of representation shall not be submitted to the permitting authority or the administrator. Neither the permitting authority nor the administrator shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

9VAC5-140-140. Objections concerning the NO_x authorized account representative.

A. Once a complete account certificate of representation under 9VAC5-140-130 has been submitted and received, the permitting authority and the administrator will rely on the account certificate of representation unless and until a superseding complete account certificate of representation under 9VAC5-140-130 is received by the administrator.

B. Except as provided in 9VAC5-140-120 A or B, no objection or other communication submitted to the permitting authority or the administrator concerning the authorization, or any representation, action, inaction, or submission of the NO_x authorized account representative shall affect any representation, action, inaction, or submission of the NO_x authorized account representative or the finality of any decision or order by the permitting authority or the administrator under the NO_x Budget Program.

C. Neither the permitting authority nor the administrator will adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of any NO_x authorized account representative.

ARTICLE 3. Permits.

9VAC5-140-200. General NO_x Budget Program permit requirements.

A. For each NO_x Budget source required to have a federally enforceable permit, such permit shall include a NO_x Budget permit administered by the permitting authority.

1. For NO_x Budget sources required to have a title V operating permit, the NO_x Budget portion of the title V permit shall be administered in accordance with the permitting authority's Title V operating permits regulations.

2. For NO_x Budget sources required to have a state operating permit, the NO_x Budget portion of the state operating permit shall be administered in accordance with the permitting authority's regulations promulgated to administer state operating permits.

B. Each NO_x Budget permit (including a draft or proposed NO_x Budget permit, if applicable) shall contain all applicable NO_x Budget Program requirements and shall be a complete and segregable portion of the permit under subsection A of this section.

9VAC5-140-210. Submission of NO_x Budget permit applications.

A. The NO_x authorized account representative of any NO_x Budget source required to have a federally enforceable permit shall submit to the permitting authority a complete NO_x Budget permit

application under 9VAC5-140-220 by the applicable deadline in subsection B of this section.

B.1. The following requirements shall apply to NO_x Budget sources required to have a Title V operating permit:

a. For any source with one or more NO_x Budget units under 9VAC5-140-40 that commenced operation before January 1, 2001, the NO_x authorized account representative shall submit a complete NO_x Budget permit application under 9VAC5-140-220 covering such NO_x Budget units to the permitting authority at least 18 months (or such lesser time provided by the permitting authority) before May 31, 2004.

b. For any source with any NO_x Budget unit under 9VAC5-140-40 that commences operation on or after January 1, 2001, the NO_x authorized account representative shall submit a complete NO_x Budget permit application under 9VAC5-140-220 covering such NO_x Budget unit to the permitting authority at least 18 months (or such lesser time provided by the permitting authority) before the later of May 31, 2004, or the date on which the NO_x Budget unit commences operation.

2. The following requirements shall apply to NO_x Budget sources required to have a state operating permit:

a. For any source with one or more NO_x Budget units under 9VAC5-140-40 that commenced operation before January 1, 2001, the NO_x authorized account representative shall submit a complete NO_x Budget permit application under 9VAC5-140-220 covering such NO_x Budget units to the permitting authority at least 18 months (or such lesser time provided by the permitting authority) before May 31, 2004.

b. For any source with any NO_x Budget unit under 9VAC5-140-40 that commences operation on or after January 1, 2001, the NO_x authorized account representative shall submit a complete NO_x Budget permit application under 9VAC5-140-220 covering such NO_x Budget unit to the permitting authority at least 18 months (or such lesser time provided by the permitting authority) before the later of May 31, 2004, or the date on which the NO_x Budget unit commences operation.

C. For a NO_x Budget source required to have a Title V operating permit, the NO_x authorized account representative shall submit a complete NO_x Budget permit application under 9VAC5-140-220 for the NO_x Budget source covering the NO_x Budget units at the source in accordance with the permitting authority's Title V operating permits regulations addressing operating permit renewal.

9VAC5-140-220. Information requirements for NO_x Budget permit applications.

A complete NO_x Budget permit application shall include the following elements concerning the NO_x Budget source for which the application is submitted, in a format prescribed by the permitting authority:

1. Identification of the NO_x Budget source, including plant name and the ORIS (Office of Regulatory Information Systems) or facility code assigned to the source by the Energy Information Administration, if applicable;

2. Identification of each NO_x Budget unit at the NO_x Budget source and

3. The standard requirements under 9VAC5-140-60.

9VAC5-140-230. NO_x Budget permit contents.

A. Each NO_x Budget permit (including any draft or proposed NO_x Budget permit, if applicable) will contain all elements required for a complete NO_x Budget permit application under 9VAC5-140-220.

B. Each NO_x Budget permit is deemed to incorporate automatically the definitions of terms under 9VAC5-140-20.

9VAC5-140-240. Effective date of initial NO_x Budget permit.

The initial NO_x Budget permit covering a NO_x Budget unit for which a complete NO_x Budget permit application is timely submitted under 9VAC5-140-210 B shall become effective by the later of:

1. May 31, 2004;

2. May 1 of the year in which the NO_x Budget unit commences operation, if the unit commences operation on or before May 1 of that year; or

3. The date on which the NO_x Budget unit commences operation, if the unit commences operation during a control period; or

4. May 1 of the year following the year in which the NO_x Budget unit commences operation, if the unit commences operation on or after October 1 of the year.

9VAC5-140-250. NO_x Budget permit revisions.

A. For a NO_x Budget source with a Title V operating permit, except as provided in 9VAC5-140-230 B, the permitting authority will revise the NO_x Budget permit, as necessary, in accordance with the permitting authority's Title V operating permit regulations addressing permit revisions.

B. For a NO_x Budget source with a state operating permit, except as provided in 9VAC5-140-230 B, the permitting authority will revise the NO_x Budget permit, as necessary, in accordance with the permitting authority's state operating permit regulations addressing permit revisions.

ARTICLE 4. (Repealed.)

9VAC5-140-300. (Repealed.)
9VAC5-140-310. (Repealed.)

ARTICLE 5. (Repealed.)

9VAC5-140-400. (Repealed.)
9VAC5-140-410. (Repealed.)
9VAC5-140-420. (Repealed.)
9VAC5-140-430. (Repealed.)

ARTICLE 6. (Repealed.)

9VAC5-140-500. (Repealed.)
9VAC5-140-510. (Repealed.)
9VAC5-140-520. (Repealed.)
9VAC5-140-530. (Repealed.)
9VAC5-140-540. (Repealed.)
9VAC5-140-550. (Repealed.)
9VAC5-140-560. (Repealed.)
9VAC5-140-570. (Repealed.)

ARTICLE 7.

(Repealed.)

9VAC5-140-600. (Repealed.)

9VAC5-140-610. (Repealed.)

9VAC5-140-620. (Repealed.)

ARTICLE 8.
Monitoring and Reporting.

9VAC5-140-700. General requirements.

A. The owners and operators, and to the extent applicable, the NO_x authorized account representative of a NO_x Budget unit, shall comply with the monitoring and reporting requirements as provided in this article and in Subpart H of 40 CFR Part 75. For purposes of complying with such requirements, the definitions in 9VAC5-140-20 and in 40 CFR 72.2 shall apply, and the terms "affected unit", "designated representative", and "continuous emission monitoring system" (or "CEMS") in 40 CFR Part 75 shall be replaced by the terms "NO_x Budget unit", "NO_x authorized account representative", and "continuous emission monitoring system" (or "CEMS"), respectively, as defined in 9VAC5-140-20.

B. The owner or operator of each NO_x Budget unit shall meet the following requirements:

1. Install all monitoring systems required under this article for monitoring NO_x mass. This includes all systems required to monitor NO_x emission rate, NO_x concentration, heat input, and flow, in accordance with 40 CFR 75.71 and 40 CFR 75.72.

2. Install all monitoring systems for monitoring heat input.

3. Successfully complete all certification tests required under 9VAC5-140-710 and meet all other provisions of this article and 40 CFR Part 75 applicable to the monitoring systems under subdivisions 1 and 2 of this subsection.

4. Record, and report data from the monitoring systems under subdivisions 1 and 2 of this subsection.

C. The owner or operator shall meet the requirements of subdivisions B 1, B 2 and B 3 of this section on or before the following dates and shall record and report data on and after the following dates:

1. NO_x Budget units under 9VAC5-140-40 that commence operation before January 1, 2003, shall comply with the requirements of this article by May 1, 2003.

2. NO_x Budget units under 9VAC5-140-40 that commence operation on or after January 1, 2003, and that report on an annual basis under 9VAC5-140-740 D shall comply with the requirements of this article by the later of the following dates:

a. May 1, 2003; or

b. The earlier of:

(1) 180 days after the date on which the unit commences operation or,

(2) For units under subdivision 1 of 9VAC5-140-40, 90 days after the date on which the unit commences commercial operation.

3. NO_x Budget units under 9VAC5-140-40 that commence operation on or after January 1, 2003, and that report on a control period basis under 9VAC5-140-740 D shall comply with the requirements of this article by the later of the following dates:

a. The earlier of:

(1) 180 days after the date on which the unit commences operation or,

(2) For units under subdivision 1 of 9VAC5-140-40, 90 days after the date on which the unit commences commercial operation.

b. However, if the applicable deadline under subdivision 3 a of this subsection does not occur during a control period, May 1; immediately following the date determined in accordance with subdivision 3 a of this subsection.

4. For a NO_x Budget unit with a new stack or flue for which construction is completed after the applicable deadline under subdivision 1, 2, or 3 of this subsection:

a. 90 days after the date on which emissions first exit to the atmosphere through the new stack or flue;

b. However, if the unit reports on a control period basis under 9VAC5-140-740 D and the applicable deadline under subdivision 4 a of this subsection does not occur during the control period, May 1 immediately following the applicable deadline in subdivision 4 a of this subsection.

D. The owner or operator of a NO_x Budget unit under subdivision C 2, C 3, or C 4 of this section shall determine, record and report NO_x mass emissions, heat input rate, and any other values required to determine NO_x mass emissions (e.g., NO_x emission rate and heat input rate, or NO_x concentration and stack flow rate) in accordance with 40 CFR 75.70(g), from the date and hour that the unit starts operating until the date and hour on which the continuous emission monitoring system, excepted monitoring system under appendix D or E of 40 CFR part 75, or excepted monitoring methodology under 40 CFR 75.19 is provisionally certified.

E.1. No owner or operator of a NO_x Budget unit or a non-NO_x Budget unit monitored under 40 CFR 75.72(b)(2)(ii) shall use any alternative monitoring system, alternative reference method, or any other alternative for the required continuous emission monitoring system without having obtained prior written approval in accordance with 9VAC5-140-750.

2. No owner or operator of a NO_x Budget unit or a non-NO_x Budget unit monitored under 40 CFR 75.72(b)(2)(ii) shall operate the unit so as to discharge, or allow to be discharged, NO_x emissions to the atmosphere without accounting for all such emissions in accordance with the applicable provisions of this article and 40 CFR Part 75 except as provided for in 40 CFR 75.74.

3. No owner or operator of a NO_x Budget unit or a non-NO_x Budget unit monitored under 40 CFR 75.72(b)(2)(ii) shall disrupt the continuous emission monitoring system, any portion thereof, or any other approved emission monitoring method, and thereby avoid monitoring and recording NO_x mass emissions discharged into the atmosphere, except for periods of recertification or periods when calibration, quality assurance testing, or maintenance is performed in accordance with the applicable provisions of this article and 40 CFR Part 75 except as provided for in 40 CFR 75.74.

4. No owner or operator of a NO_x Budget unit or a non-NO_x Budget unit monitored under 40 CFR 75.72(b)(2)(ii) shall retire or permanently discontinue use of the continuous emission monitoring system, any component thereof, or any other approved emission monitoring system under this article, except under any one of the following circumstances:

a. During the period that the unit is covered by a retired unit exemption under 9VAC5-140-50 that is in effect;

b. The owner or operator is monitoring emissions from the unit with another

certified monitoring system approved, in accordance with the applicable provisions of this article and 40 CFR Part 75, by the permitting authority for use at that unit that provides emission data for the same pollutant or parameter as the retired or discontinued monitoring system; or

c. The NO_x authorized account representative submits notification of the date of certification testing of a replacement monitoring system in accordance with 9VAC5-140-710 A 2.

9VAC5-140-710. Initial certification and recertification procedures.

A. The owner or operator of a NO_x Budget unit shall comply with the following initial certification and recertification procedures, except that the owner or operator of a unit that qualifies to use the low mass emissions excepted monitoring methodology under 40 CFR 75.19 shall also meet the requirements of subsection B of this section and the owner or operator of a unit that qualifies to use an alternative monitoring system under subpart E of 40 CFR Part 75 shall also meet the requirements of subsection C of this section.

1. The owner or operator shall ensure that each emission monitoring system required by Subpart H of 40 CFR Part 75 (which includes the automated data acquisition and handling system) successfully completes all of the initial certification testing required under 40 CFR 75.20. The owner or operator shall ensure that all applicable certification tests are successfully completed by the deadlines specified in 9VAC5-140-700 C. In addition, whenever the owner or operator installs an emission monitoring system in order to meet the requirements of this part in a location where no such emission monitoring system was previously installed, initial certification according to 40 CFR 75.20 is required.

2. Whenever the owner or operator makes a replacement, modification, or change in a certified emission monitoring system that may significantly affect the ability of the system to accurately measure or record NO_x mass emissions or heat input rate or to meet the requirements of 40 CFR 75.21 or appendix B to 40 CFR Part 75, the owner or operator shall recertify the emission monitoring system according to 40 CFR 75.20(b). Furthermore, whenever the owner or operator makes a replacement, modification, or change to the flue gas handling system or the unit's operation that may significantly change the stack flow or concentration profile, the owner or operator shall recertify the continuous emissions monitoring system according to 40 CFR 75.20(b). Examples of changes which require recertification include: replacement of the analyzer, complete replacement of an existing continuous emission monitoring system, or change in location or orientation of the sampling probe or site.

3.a. The NO_x authorized account representative shall submit to the permitting authority, the EPA Region III Office and the administrator a written notice of the dates of certification in accordance with 9VAC5-140-730.

b. The NO_x authorized account representative shall submit to the permitting authority a certification application for each emission monitoring system required under subpart H of 40 CFR Part 75. A complete certification application shall include the information specified in subpart H of 40 CFR Part 75.

c. Except for units using the low mass emission excepted methodology under 40 CFR 75.19, the provisional certification date for a monitor shall be determined using the procedures set forth in 40 CFR 75.20(a)(3). A provisionally certified monitor may be used under the NO_x Budget Program for a period not to exceed 120 days after receipt by the permitting authority of the complete certification application for the monitoring system under subdivision 3 b of this subsection. Data measured and recorded by the provisionally certified monitoring system, in accordance with the requirements of 40 CFR Part 75, shall be considered valid quality-assured data (retroactive to the date and time of provisional certification), provided that the permitting authority does not invalidate the provisional certification by issuing a notice of disapproval within 120 days of receipt of the complete certification application by the permitting authority.

d. The permitting authority will issue a written notice of approval or disapproval of the certification application to the owner or operator within 120 days of receipt of the complete certification application under subdivision 3 b of this subsection. In the event the permitting authority does not issue such

a notice within such 120-day period, each monitoring system which meets the applicable performance requirements of 40 CFR Part 75 and is included in the certification application will be deemed certified for use under the NO_x Budget Program.

(1) If the certification application is complete and shows that each monitoring system meets the applicable performance requirements of 40 CFR Part 75, then the permitting authority will issue a written notice of approval of the certification application within 120 days of receipt.

(2) A certification application will be considered complete when all of the applicable information required to be submitted under subdivision 3 b of this subsection has been received by the permitting authority. If the certification application is not complete, then the permitting authority will issue a written notice of incompleteness that sets a reasonable date by which the NO_x authorized account representative shall submit the additional information required to complete the certification application. If the NO_x authorized account representative does not comply with the notice of incompleteness by the specified date, then the permitting authority may issue a notice of disapproval under subdivision 3 d (3) of this subsection.

(3) If the certification application shows that any monitoring system does not meet the performance requirements of this part, or if the certification application is incomplete and the requirement for disapproval under subdivision 3 d (2) of this subsection has been met, the permitting authority will issue a written notice of disapproval of the certification application. Upon issuance of such notice of disapproval, the provisional certification is invalidated by the permitting authority and the data measured and recorded by each uncertified monitoring system shall not be considered valid quality-assured data beginning with the date and hour of provisional certification. The owner or operator shall follow the procedures for loss of certification in subdivision 3 e of this subsection for each monitoring system which is disapproved for initial certification.

(4) The permitting authority may issue a notice of disapproval of the certification status of a monitor in accordance with 9VAC5-140-720 B.

e. If the permitting authority issues a notice of disapproval of a certification application under subdivision 3 d (3) of this subsection or a notice of disapproval of certification status under subdivision 3 d (4) of this subsection, then:

(1) The owner or operator shall substitute the following values, for each hour of unit operation during the period of invalid data specified under 40 CFR 75.20(a)(4)(iii), 40 CFR 75.20(b)(5), 40 CFR 75.20(h)(4), or 40 CFR 75.21(e) and continuing until the date and hour specified under 40 CFR 75.20(a)(5)(i):

(a) For units using or intending to monitor for NO_x emission rate and heat input or for units using the low mass emission excepted methodology under 40 CFR 75.19, the maximum potential NO_x emission rate and the maximum potential hourly heat input of the unit.

(b) For units intending to monitor for NO_x mass emissions using a NO_x pollutant concentration monitor and a flow monitor, the maximum potential concentration of NO_x and the maximum potential flow rate of the unit under section 2.1 of Appendix A of 40 CFR Part 75;

(2) The NO_x authorized account representative shall submit a notification of certification retest dates and a new certification application in accordance with subdivisions 3 a and b of this subsection; and

(3) The owner or operator shall repeat all certification tests or other requirements that were failed by the monitoring system, as indicated in the permitting authority's notice of disapproval, no later than 30 unit operating days after the date of issuance of the notice of disapproval.

B. The owner or operator of a gas-fired or oil-fired unit using the low mass emissions excepted

methodology under 40 CFR 75.19 shall meet the applicable general operating requirements of 40 CFR 75.10 and the applicable requirements of 40 CFR 75.19. The owner or operator of such a unit shall also meet the applicable certification and recertification procedures of subsection A of this section, except that the excepted methodology shall be deemed provisionally certified for use under the NO_x Budget Program as of the date on which the certification application is received by the administrator. The methodology shall be considered to be certified either upon receipt of a written notice of approval from the administrator or, if such notice is not provided, at the end of the administrator's 120-day review period. However, a provisionally certified or certified low mass emissions excepted methodology shall not be used to report data under the NO_x Budget Program prior to the applicable commencement date specified in 40 CFR 75.19(a)(1)(ii).

C. The NO_x authorized account representative representing the owner or operator of each unit applying to monitor using an alternative monitoring system approved by the administrator and, if applicable, the permitting authority under Subpart E of 40 CFR Part 75 shall apply for certification to the permitting authority prior to use of the system under the NO_x Budget Program. The NO_x authorized account representative shall apply for recertification following a replacement, modification or change according to the procedures in subsection A of this section. The owner or operator of an alternative monitoring system shall comply with the notification and application requirements for certification according to the procedures specified in subdivision A 3 of this section and 40 CFR 75.20(f).

9VAC5-140-720. Out of control periods.

A. Whenever any emission monitoring system fails to meet the quality assurance requirements of Appendix B of 40 CFR Part 75, data shall be substituted using the applicable procedures in Subpart D, Subpart H, Appendix D, or Appendix E of 40 CFR Part 75.

B. Whenever both an audit of an emission monitoring system and a review of the initial certification or recertification application reveal that any system should not have been certified or recertified because it did not meet a particular performance specification or other requirement under 9VAC5-140-710 or the applicable provisions of 40 CFR Part 75, both at the time of the initial certification or recertification application submission and at the time of the audit, the permitting authority will issue a notice of disapproval of the certification status of such system. For the purposes of this subsection an audit shall be either a field audit or an audit of any information submitted to the permitting authority or the administrator. By issuing the notice of disapproval, the permitting authority revokes prospectively the certification status of the system. The data measured and recorded by the system shall not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status until the date and time that the owner or operator completes subsequently approved initial certification or recertification tests. The owner or operator shall follow the initial certification or recertification procedures in 9VAC5-140-710 for each disapproved system.

9VAC5-140-730. Notifications.

The NO_x authorized account representative for a NO_x Budget unit shall submit written notice to the permitting authority and the administrator in accordance with 40 CFR 75.61.

9VAC5-140-740. Recordkeeping and reporting.

A. The NO_x authorized account representative shall comply with all recordkeeping and reporting requirements in this section, with the recordkeeping and reporting requirements under 40 CFR 75.73, and with the requirements of 9VAC5-140-100 E1.

B. The owner or operator of a unit shall comply with requirements of 40 CFR 75.62, except that the monitoring plan is only required to include the information required by Subpart H of 40 CFR Part 75.

C. The NO_x authorized account representative shall submit an application to the permitting authority within 45 days after completing all initial certification or recertification tests required under 9VAC5-140-710 including the information required under Subpart H of 40 CFR Part 75.

D. The NO_x authorized account representative shall submit quarterly reports, as follows:

1. If the owner or operator of the NO_x Budget unit chooses to meet the annual reporting requirements of this article, the NO_x authorized account representative shall submit a quarterly report, documenting the NO_x mass emissions from the unit, for each calendar quarter beginning with:

a. For a unit that commences operation before January 1, 2003, the calendar quarter covering May 1, 2003, through June 30, 2003. NO_x mass emission data shall be recorded and reported from the first hour on May 1, 2003; or

b. For a unit that commences operation on or after January 1, 2003:

(1) The calendar quarter in which the unit commences operation, if unit operation commences during a control period. NO_x mass emission data shall be recorded and reported from the date and hour when the unit commences operation; or

(2) The calendar quarter which includes May 1 through June 30 of the first control period following the date on which the unit commences operation, if the unit does not commence operation during a control period. NO_x mass emission data shall be recorded and reported from the first hour on May 1 of that control period.

2. The NO_x authorized account representative shall either:

a. Meet all of the requirements of 40 CFR Part 75 related to monitoring and reporting NO_x mass emissions during the entire year and meet the reporting deadlines specified in subdivision 1 of this subsection; or

b. Submit quarterly reports, documenting NO_x mass emissions from the unit, only for the period from May 1 through September 30 of each year and including the data described in 40 CFR 75.74 (c)(6). The NO_x authorized account representative shall submit such quarterly reports, beginning with:

(1) For a unit that commences operation before January 1, 2003, the calendar quarter covering May 1 through June 30, 2003. NO_x mass emission data shall be recorded and reported from the first hour of May 1, 2003; or

(2) For a unit that commences operation on or after January 1, 2003, and during a control period, the calendar quarter in which the unit commences operation. NO_x mass emission data shall be reported from the date and hour corresponding to when the unit commences operation; or

(3) For a unit that commences operation on or after January 1, 2003, and not during a control period, the calendar quarter which includes May 1 through June 30 of the first control period after the unit commences operation. NO_x mass emission data shall be recorded and reported from the first hour on May 1 of the first control period after the unit commences operation.

3. The NO_x authorized account representative shall submit each quarterly report to the administrator within 30 days following the end of the calendar quarter covered by the report. Quarterly reports shall be submitted in the manner specified in Subpart H of 40 CFR Part 75 and 40 CFR 75.64. Quarterly reports are only required to include all of the data and information required in Subpart H of 40 CFR Part 75 for each NO_x Budget unit (or group of units using a common stack).

9VAC5-140-750. Petitions.

The NO_x authorized account representative of a NO_x Budget unit may submit a petition under 40 CFR 75.66 to the permitting authority and the administrator requesting approval to apply an alternative to any requirement of this article. Application of an alternative to any requirement of this article is in

accordance with this article only to the extent the petition is approved by the permitting authority and the administrator.

9VAC5-140-760. (Repealed.)

ARTICLE 9.
(Repealed.)

9VAC5-140-800. (Repealed.)
9VAC5-140-810. (Repealed.)
9VAC5-140-820. (Repealed.)
9VAC5-140-830. (Repealed.)
9VAC5-140-840. (Repealed.)
9VAC5-140-850. (Repealed.)
9VAC5-140-860. (Repealed.)
9VAC5-140-870. (Repealed.)
9VAC5-140-880. (Repealed.)

ARTICLE 10.
(Repealed.)

9VAC5-140-900. (Repealed.)
9VAC5-140-910. (Repealed.)
9VAC5-140-920. (Repealed.)
9VAC5-140-930. (Repealed.)

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